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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

RUDOLPH W. GIULIANI
a/k/a RUDOLPH WILLIAM GIULIANI,

Debtor.

RUBY FREEMAN and WANDREA' ArSHAYE
MOSS,

Plaintiffs,

v.

RUDOLPH W. GIULIANI
a/k/a RUDOLPH WILLIAM GIULIANI,

Defendant.

Chapter 11

Case No. 23-12055 (SHL)

Adv. Pro. No. _____

**COMPLAINT TO DETERMINE
DISCHARGEABILITY OF DEBT**

INTRODUCTION

1. Defendant Rudolph W. Giuliani targeted Ruby Freeman and Wandrea' ArShaye ("Shaye") Moss (together, "Plaintiffs") with a coordinated campaign of defamation and intentional infliction of emotional distress ("IIED") for his own personal and political gain in the aftermath of the 2020 presidential election. Ms. Freeman and her daughter Ms. Moss served as election workers in that election and counted absentee ballots in the State Farm Arena in Fulton County, Georgia. After Georgia election officials confirmed that then-President Donald Trump lost the election in that state, Mr. Giuliani and a group of lawyers and investigators supporting Trump and his presidential campaign launched a strategic plan to blame the loss in Georgia on Ms. Freeman and Ms. Moss by (falsely) accusing them of numerous acts amounting to election fraud.

2. Giuliani and his team launched that plan, and personally spread or encouraged third parties to spread the false narrative. Their accusations generated hundreds of millions of impressions online, and plastered the names and faces of Ms. Freeman and Ms. Moss all over the internet. Their names became synonymous with election fraud and treason.

3. The intended consequence of the viral spread of Mr. Giuliani's claims was immediate and devastating to Ms. Freeman and Ms. Moss. They received vicious, racist, and profane messages via a variety of channels: phone calls, texts, voice messages, social media communications, U.S. mail, and even in person. The FBI recommended Ms. Freeman move out of her home in advance of January 6, 2021. She followed that advice, and had already fled her home when strangers showed up on January 5, 2021 with bullhorns and flags looking for her. Strangers showed up at Ms. Freeman's mother's home too, asking if Ms. Moss was there so they could conduct a "citizen's arrest." Both women suffered severe emotional and reputational damages as a result Mr. Giuliani's intentional campaign.

4. In December 2022, Plaintiffs filed a lawsuit in the U.S. District Court for the District of Columbia (“District Court”) alleging defamation *per se*, IIED, and civil conspiracy. That Court found Mr. Giuliani liable on all three claims on August 30, 2023 in a 58-page order entered as a sanction for Mr. Giuliani’s “sanctionable ‘willful shirking of his discovery obligations.’” As a result of the default judgment, all of the allegations in Plaintiffs’ complaint were deemed admitted.

5. In December 2023, a jury awarded Plaintiffs more than \$146 million, including \$75 million in punitive damages. Mr. Giuliani and Plaintiffs filed a joint, post-verdict stipulation on various matters including specific language to be entered as declaratory relief, which further confirmed as a matter of law that Mr. Giuliani acted with “actual malice,” “engaged in extreme and outrageous conduct which intentionally and maliciously caused the Plaintiffs to suffer severe emotional distress,” and that his overall “conduct was intentional, malicious, wanton, and willful.”

6. The District Court entered final judgment on the jury award on December 18, 2023, incorporating the language to which the parties had stipulated (the “Freeman Judgment”).

7. Three days later, Mr. Giuliani filed a bankruptcy petition under Chapter 11 of the Bankruptcy Code.

8. Mr. Giuliani cannot use bankruptcy to escape accountability for his actions. The Freeman Judgment is a debt for “willful and malicious injury” by Mr. Giuliani that is not dischargeable under section 523(a)(6) of the Bankruptcy Code. All of the facts necessary to reach that conclusion have already been decided—and even conceded—by virtue of Mr. Giuliani’s default in the Freeman Litigation and then, again, after the damages trial when Mr. Giuliani conceded these issues by stipulating to the conduct as, *inter alia*, “intentional, malicious, wanton, and willful” in declaratory relief that the Court incorporated into the Freeman Judgment. All that

remains is for this Court to make the legal determination that Mr. Giuliani's debt to Plaintiffs is not dischargeable under section 523(a)(6).

9. Plaintiffs accordingly bring this adversary proceeding to obtain a determination that Mr. Giuliani's debt to Plaintiffs is not dischargeable in bankruptcy. Since Plaintiffs initiated the underlying lawsuit, Mr. Giuliani has treated the judicial process and its rules as something that does not apply to him. He is wrong. Causing willful and malicious injury to others has consequences. Mr. Giuliani cannot hide behind bankruptcy to escape those consequences and accountability for the devastating impact his actions caused.

PARTIES

10. Plaintiffs Ruby Freeman and Wandrea' "Shaye" Moss were plaintiffs in *Freeman v. Giuliani*, No. 21-cv-3354 (D.D.C.) (the "Freeman Litigation"), and hold a final money judgment in the amount of \$146,206,113.00, plus post-judgment interest, entered in that litigation. Plaintiffs are creditors in the Defendant's Chapter 11 bankruptcy case, *In re Rudolph W. Giuliani*, No. 23-12055 (SHL).

11. Defendant Rudolph W. Giuliani is the debtor in Case No. 23-12055 (SHL) and was a defendant in the Freeman Litigation.

JURISDICTION AND VENUE

12. This Court has subject-matter jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §§ 157 and 1334. This adversary proceeding is a core proceeding under 28 U.S.C. § 157(b)(2)(I). Venue is proper in this District under 28 U.S.C. § 1409(a) because this adversary proceeding arises in and relates to *In re Rudolph W. Giuliani*, No. 23-12055-SHL, a Chapter 11 case pending in this District. Plaintiffs consent to entry of final orders or judgment by this Court.

BACKGROUND

I. MR. GIULIANI CONSPIRED TO WAGE A WILLFUL AND MALICIOUS CAMPAIGN OF DEFAMATION AND INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS AGAINST PLAINTIFFS.

13. The Freeman Complaint filed in the Freeman Litigation and the voluminous evidentiary record presented at trial set forth in detail the facts underlying Plaintiffs' judgment against Mr. Giuliani.¹ As relevant here, all facts alleged in the Freeman Complaint are deemed admitted by operation of the default judgment entered against Mr. Giuliani in that case. Plaintiffs summarize the relevant facts here to provide background for the claims at issue in this adversary proceeding. However, all of the material facts necessary to determine that Mr. Giuliani's debt to Plaintiffs is not dischargeable have been conclusively resolved in the Freeman Litigation.

A. Ms. Moss and Ms. Freeman Served as Election Workers for the Fulton County Registration and Elections Department During the 2020 General Election.

14. Ms. Moss was a full-time employee of the Fulton County Registration and Elections Department, serving as an interim election supervisor during the 2020 general election. This role included overseeing the tabulation of absentee and provisional ballots before, during, and after election day, November 3, 2020.²

¹ See Amended Complaint, *Freeman v. Giuliani*, No. 1:21-cv-3354-BAH (D.D.C. May 10, 2022), ECF No. 22 (the "Freeman Complaint"). The Freeman Complaint is attached to this Complaint as Exhibit A. The record compiled in the Freeman Litigation contains extensive documentary and testimonial evidence supporting the allegations in this Complaint; here, Plaintiffs cite to the relevant portions of that record to illustrate the supporting evidence introduced in the Freeman Litigation.

² Freeman Complaint ¶¶ 2, 19–20, 30–32. Freeman Trial Tr. Day 2, Morning at 31:11–32:3 Trial Tr. Day 3, Afternoon at 108:9–13; Trial Tr. Day 2, Afternoon at 24:22–25:9, 22:8–13. The "Freeman Trial Tr." refers to the transcript of the December 2023 damages trial in *Freeman v. Giuliani*, (the "Freeman Trial").

15. Ms. Moss's mother, Ms. Freeman, signed up to serve as a temporary election worker in that election. She did so to show her support for democracy, Fulton County, and her daughter.³

16. On Election Day, Ms. Freeman and Ms. Moss arrived at State Farm Arena in the early hours of the morning to count absentee ballots and stayed into the early hours of November 4.⁴

17. By November 13, 2020, NBC, ABC, CBS, and CNN projected that Joe Biden won Georgia's 16 electoral votes.⁵ Fox News and the Associated Press followed suit on November 19, 2020.⁶ Between November 11 through 19, 2020, election officials across Georgia conducted a risk-limiting audit and a full manual tally of all ballots. The audit "was the largest hand count of ballots in United States history" and it confirmed "the correct winner was reported."⁷ On November 20, 2020, Georgia Governor Brian Kemp and Georgia Secretary of State Brad Raffensperger certified President Biden's victory following the audit.⁸ Former-President Trump subsequently requested a third count of the ballots in Georgia, which, on December 7, 2020, again confirmed President Biden's victory.⁹

³ Freeman Trial Tr. Day 3, Afternoon at 105:17–106:21.

⁴ Freeman Trial Tr. Day 2, Morning at 32:12–17; Trial Tr. Day 3, Afternoon at 108:3–13; Trial Day 2, Afternoon Tr. at 23:12–14.

⁵ Freeman Complaint ¶ 33.

⁶ *Id.*

⁷ *Id.* ¶ 34; Ga. Sec'y of State, *Risk-Limiting Audit Report: Georgia Presidential Contest, November 2020* (Nov. 19, 2020), <https://perma.cc/3CT8-W9BC>.

⁸ Freeman Complaint ¶¶ 34–35.

⁹ *Id.* ¶¶ 35–36; Kate Brumback, *Georgia again certifies election results showing Biden won*, Associated Press (Dec. 7, 2020).

B. Mr. Giuliani Spearheads a Conspiracy to Defame and Intentionally Inflict Emotional Distress Upon Plaintiffs, Despite Knowing His Claims were Untrue.

18. On December 3, 2020, Mr. Giuliani began orchestrating a campaign to convince the world that a surveillance video from State Farm Arena security cameras on Election Day (“State Farm Arena Video”) showing Ms. Freeman and Ms. Moss counting ballots was proof of them stealing the presidential election in Georgia from Trump.¹⁰

19. Mr. Giuliani accused Ms. Freeman and Ms. Moss of engaging in various forms of election fraud, including hiding illegal ballots in suitcases, excluding election observers under false pretenses for the purpose of counting illegal ballots, and counting illegal ballots multiple times. He later accused them of passing “around USB ports as if they’re vials of heroin or cocaine” to infiltrate the voting machines,¹¹ and claimed Ms. Freeman had “a history of voter fraud participation.”¹²

20. As was established in the Freeman Litigation, none of these statements are true. And the State Farm Arena Video provided no support for any of them.

21. Mr. Giuliani knew that. Even before he made the bulk of his statements about Ms. Freeman and Ms. Moss—and before his plan to scapegoat them was memorialized in a written, strategic communications plan, as discussed below—Republican officials in the Office of the

¹⁰ Freeman Complaint ¶¶ 4–5, 39 at n.23. Examples of Mr. Giuliani’s December 3, 2020 statements about the State Farm Arena Video were admitted at the Freeman Trial as Trial Exs. 237 and 243. Admitted exhibits from the Freeman Trial will be referred to as Trial Exhibits.

¹¹ Freeman Complaint ¶¶ 4–5, 66, 69, 71, 91, 94, 99–100, 134, 166. A complete list of the statements at issue in the Freeman Litigation is attached as Exhibit B.

¹² Freeman Complaint ¶¶ 59, 66, 69, 71, 91, 94, 99. A transcript of the December 23, 2020 episode of *Common Sense* where Mr. Giuliani made this statement was admitted at the Freeman Trial as Trial Ex. 3.

Georgia Secretary of State and the Georgia Bureau of Investigations had publicly and unequivocally declared his claims to be false.¹³

22. Gabriel Sterling, then the Georgia’s Voting Systems Implementation Manager and now the Georgia Secretary of State’s Chief Operating Officer, began publicly refuting Mr. Giuliani’s claims on December 4, 2020—the day after Mr. Giuliani began his scheme. At 5:41 AM, Mr. Sterling confirmed on Twitter that the “the “90 second video of election workers at State Farm arena, purporting to show fraud was watched in its entirety (hours) by @GaSecofState investigators. Shows normal ballot processing.”¹⁴

23. Mr. Sterling wasted no time debunking Mr. Giuliani’s claims. In an interview on Newsmax, Mr. Sterling explained:

“When you watch the video, the process—*those aren’t suitcases. Those are regular absentee carriers used in dozens of counties across the state.* That’s how they bring those in. Nothing was brought in without the monitors there, so everything was there. There was nothing new brought in. We didn’t see somebody wheeling stuff into the room; *we saw stuff that was already in the room that the monitors already saw brought in.*”¹⁵

24. In the same media appearance, Mr. Sterling stated that “with people’s emotions up” allegations of voter fraud in Georgia are causing “threats to be made against these thousands of workers across the country.”¹⁶ Mr. Sterling’s remarks on December 4, 2020 echoed those he had made during a press conference just two days earlier warning the Trump Campaign about the likely

¹³ Freeman Complaint ¶¶ 7, 40–45, 72–77. *See generally* Trial Exs. 252, 292, & 279.

¹⁴ Freeman Complaint ¶ 41. This tweet from Mr. Sterling was admitted at the Freeman Trial as Trial Ex. 252.

¹⁵ Freeman Complaint ¶ 41 (emphasis added). A transcript of this interview was admitted at the Freeman Trial as Trial Ex. 244.

¹⁶ *Id.*

consequences of unsubstantiated attacks on the Georgia election system: “Someone’s going to get hurt, someone’s going to get shot, someone’s going to get killed.”¹⁷

25. On December 5, 2020, the Chief Investigator in the Office of the Georgia Secretary of State, Frances Watson, stated in a sworn declaration:

“My investigators have interviewed witnesses and [reviewed] security footage of State Farm Arena between November 3 and 4, 2020. Our investigation discovered that *observers and media were not asked to leave. They simply left on their own* when they saw one group of workers, whose job was only to open envelopes and who had completed that task, also leave.”¹⁸

26. On December 7, 2020, Mr. Sterling hosted a press conference and was asked about the claim that ballots were scanned multiple times into voting machines. Mr. Sterling explained:

“Well if it, if [a voting machine] counted it five times, guess what, it would have shown up in the hand count. Because if you do the same batch, let’s say—I don’t even know how many there were, a hundred, two hundred, whatever it was—and let’s say you do it three times, they would have been 600 off on that on the hand count. They weren’t. I mean, it’s just as I’ve said, and y’all have heard me say it before, it’s a ridiculous game of whack-a-mole.”¹⁹

27. The official refutations of Mr. Giuliani’s claims were widely reported by the media.²⁰ Mr. Giuliani had contemporaneous knowledge of the Georgia Secretary of State’s findings on the State Farm Arena Video.²¹

28. Mr. Giuliani and his co-conspirators were undeterred by the facts and continued executing their concerted strategy to portray Ms. Freeman and Ms. Moss as the faces of fraud in

¹⁷ Freeman Complaint ¶¶ 138–39; Trial. Ex. 244.

¹⁸ *Id.* ¶¶ 47 n.32, 72–77 (emphasis added). This declaration was admitted at the Freeman Trial as Trial Ex. 279.

¹⁹ Freeman Complaint ¶¶ 50–51. A transcript of the December 7, 2020 Press Conference was admitted at the Freeman Trial as Trial Ex. 292.

²⁰ Freeman Complaint ¶¶ 42–43, 45, 51–53.

²¹ *Id.* ¶¶ 105–06.

Georgia. Mr. Giuliani made the choice to proceed with his campaign regardless of the truth, in pursuit of profit and political goals.²²

29. On December 23, 2020, for example, Mr. Giuliani said the following on an episode of his online show, *Rudy Giuliani's Common Sense*:

“There’s a video recording in Fulton County, Georgia of obviously, without any doubt, the theft of votes. You have to be a naive child or a completely dishonest partisan not to realize that the ***observers are being thrown out of the room, a phone excuse of a water main break was used***, they still were thrown out of the room - didn’t want to leave. Once they all left and a last check was done around the hall, the workers for Atlanta, for Fulton County, the five or six, ***one of whom has a history of voter fraud participation, Ruby Freeman***, they scurry under these desks -- hardly where you would keep ballots, right? -- And they start taking ballots out and they put them on a wheelbarrow sort of thing and wheel them around. And you can see the ballots don’t look really like absentee ballots that are in envelopes; they more like pristine pieces of paper. And then they’re given out and very quickly are being counted, counted, counted, and counted. ***There are times in which it appears that they were being counted more than one time - three, four, five, six, seven times, eight times.***”²³

30. As established in the Freeman Litigation, Mr. Giuliani did not launch a sustained campaign of Ms. Freeman and Ms. Moss by happenstance.²⁴ As early as mid-November 2020, Mr. Giuliani and his legal team devised a strategy to use allegations of voter fraud to overturn President Biden’s electoral victory.²⁵ He and his team eventually memorialized their plan in a

²² *Id.* ¶¶ 130–32, 175.

²³ *Id.* ¶ 66; Trial Ex. 3.

²⁴ Freeman Complaint ¶ 4.

²⁵ *Id.* ¶¶ 9–12; 57–64, 165. The Freeman Complaint alleges that the written strategy, the “Strategic Communications Plan” from the “Giuliani Presidential Legal Defense Team” was launched “around December 2020.” *Id.* ¶ 9. Discovery in the Freeman Litigation later pinpointed that the Giuliani Legal Team had discussions about the underlying strategy of the Strategic Communications Plan six weeks before it was given to the White House on December 27, 2020, or in mid-November 2020. This information came from the Deposition of Bernard Kerik, excerpts of which were admitted at the Freeman Trial as Trial Ex. 592.

document titled the “Strategic Communications Plan,” attributed to the “Giuliani Presidential Legal Defense Team” (the “Giuliani Strategic Plan”).²⁶

31. The stated goal of the Giuliani Strategic Plan was to launch a “Nationwide communications outreach campaign to educate the public on the fraud numbers, and inspire citizens to call upon legislators and Members of Congress to disregard the fraudulent vote count and certify the duly-elected President Trump.”²⁷

32. In December 2020, Mr. Giuliani and his team had the names and faces of Ms. Freeman and Ms. Moss to fill in to the Giuliani Strategic Plan’s talking points as the perpetrators of fraud in Georgia:²⁸

- “Election Official Ruby Freeman is seen surreptitiously & illegally handing off hard-drives ON CAMERA in the Georgia counting facility;”²⁹
- “Video of Ruby and Shay [sic] at midnight”
 - “That is the time of the 200,000 vote bump”
 - “Similar interruptions at same time in other states”
 - “No Watermain Break – a lie to get the Republican observers and media to leave at 10:30pm”³⁰
- “**Suitcase Gate** – Video of ballot stuffing when suitcases (contained type) filled with ballots (approximately 6,000 in each container) were rolled out from under table at GA arena and placed in tabulation machines (one batch repeatedly tabulated at least 3 times) by [X number] of poll workers who remained AFTER all Poll Watchers (GOP and the like), press and all third parties were required to leave the premises per announcement at or about [__ AM] until [__ AM] in violation of election laws enacted by GA state legislature. Ruby Freeman (woman in purple shirt on video), now under arrest and

²⁶ Freeman Complaint ¶¶ 57–64, 165. The Giuliani Strategic Plan was admitted at the Freeman Trial as Trial Ex. 1.

²⁷ Freeman Complaint ¶ 58; Trial Ex. 1.

²⁸ Freeman Complaint ¶¶ 2, 4, 9, 12, 65, 165.

²⁹ *Id.* ¶¶ 57–64, 165; Trial Ex. 1.

³⁰ Freeman Complaint ¶¶ 57–64, 165; Trial Ex. 1.

providing evidence against GA SOS Stacey Abrams and DNC on advanced coordinated effort to commit voter / election fraud [*need confirmation of arrest and evidence*].”³¹

33. Mr. Giuliani repeated the lies about Ms. Freeman and Ms. Moss throughout December 2020 and afterward, including throughout the Freeman Litigation, after the jury returned its verdict, and following the filing of Mr. Giuliani’s Chapter 11 petition, including into this year.

C. Mr. Giuliani’s Claims About Ms. Freeman and Ms. Moss Went Viral, Just as He Intended.

34. Mr. Giuliani’s intended consequence was to amplify the false statements about Ms. Freeman to ensure they reached as large an audience as possible.³²

35. The Giuliani Strategic Plan identified “Channels to Disseminate Messaging” that Mr. Giuliani would use to publish Actionable Statements, including but not limited to “Presidential Tweets,” “Giuliani Team Tweets,” “Talk Radio,” “YouTube Influencers,” and “Conservative Podcasts.”³³ The Plan listed 29 Conservative Influencers to help spread the election fraud narrative and stressed that “WE have to use TIKTOK!! Content goes VIRAL here like no other platform!!!! And there are MILLIONS of Trump supporters!”³⁴

36. Mr. Giuliani himself is a prominent media figure who hosts multiple programs, including a daily radio show on WABC 77 titled *Chat with the Mayor*, a weekly Sunday radio show on WABC77 titled *Uncovering the Truth with Rudy Giuliani and Dr. Maria Ryan*, and an online video show posted on multiple platforms titled *Rudy Giuliani’s Common Sense*. He

³¹ Freeman Complaint ¶¶ 57–64, 165. Trial Ex. 1.

³² *Id.* at ¶¶ 12, 137, 165.

³³ Trial Ex. 1.

³⁴ *Id.* at 17–18 (emphasis in the original).

generates advertising revenue from these programs, and the amount of that revenue increases with the number of viewers and listeners.

37. In the Freeman Litigation, and as detailed below, Mr. Giuliani repeatedly refused to provide Plaintiffs with the metrics and financial income generated from episodes of the Giuliani programs that contained the defamatory statements. The District Court ordered adverse inferences requiring that the jury must “infer that defendant Giuliani received substantial financial benefits from defendant Giuliani’s defamation of Plaintiffs” and “infer that the Giuliani Businesses continue to generate advertising revenue and other income from their operations.”³⁵

38. Mr. Giuliani made contemporaneous statements acknowledging that his lies were spreading and gaining traction. On a December 4 episode of his radio show, Mr. Giuliani implored those listening to his radio show to watch the State Farm Arena Video that’s “all over Twitter.”³⁶ In the same program, Mr. Giuliani answered a call from a listener who said “there are people all over the country that are so angry right? It’s hard to even—.” Mr. Giuliani interjected, “Well, they should be.”³⁷

39. On December 10, 2020, Mr. Giuliani said that the allegations of fraud in Atlanta had “gone viral all over the country” and that he was getting “letters and texts about it from all over the world.”³⁸

³⁵ Freeman Litigation Dkt. No. 102 at 4 (emphasis added). *See also* Freeman Litigation Dkt. No. 70-7 at 32:10–33:3, 36:17–38:11 (excerpts of Mr. Giuliani’s deposition testimony confirming that he generates advertising revenue from the Giuliani Platforms).

³⁶ A transcript of the December 4, 2020 episode of Mr. Giuliani radio program, *Chat with the Mayor*, was admitted at the Freeman Trial as Trial Ex. 568.

³⁷ Trial Ex. 568.

³⁸ Video of this December 10, 2020 statement from Mr. Giuliani was admitted at the Freeman Trial as Trial Ex. 307.

40. In the heavily reported January 2, 2021 phone call with Georgia Secretary of State Brad Raffensperger, former-President Trump noted that Ms. Freeman’s “reputation is deva[stated]— she’s known all over the Internet, Brad. She’s known all over.”³⁹

41. At trial, Plaintiffs presented testimony about the volume of violent, hateful messages that were directed at Ms. Freeman and Ms. Moss. Regina Scott, a 30-year veteran of the Chicago Police Department and a senior consultant at Jensen Hughes, a full-service security risk and consulting firm, testified that “the type of violent and racist and graphic material [sent to Plaintiffs], that’s on a level that we’re not – that we don’t see at all in our work.” She further explained that “when you combined the type of content alone with the volume of content, it’s unprecedented.”⁴⁰

D. Mr. Giuliani’s Willful and Malicious Conduct Devastated Ms. Freeman’s and Ms. Moss’ Reputations, Livelihoods, and Safety.

42. As soon as it began, Mr. Giuliani’s conduct had its anticipated effect. As Ms. Freeman and Ms. Moss testified to under oath during trial, Mr. Giuliani’s campaign had immediate and devastating consequences.⁴¹

43. Beginning on December 3, 2020, strangers who believed Mr. Giuliani’s lies contacted Mr. Freeman and Ms. Moss directly, and incessantly.⁴² Ms. Freeman and Ms. Moss (and even Ms. Moss’s teenage son) received hateful, racist, and profane-laden messages by phone,

³⁹ A transcript of this January 2, 2021 phone call was admitted at the Freeman Trial as Trial Ex. 575.

⁴⁰ Freeman Trial Tr. Day 1, Afternoon at 69:4–24, 98:16–99:8.

⁴¹ Freeman Complaint ¶¶ 14–17, 140–62.

⁴² *Id.* ¶¶ 139, 151; Freeman Trial Tr. Day 2, Morning at, 62:16–20, 63:5–9, 64:3–22, 66:5–67:21, 68:9–69:17, 73:7–20; Freeman Trial Tr. Day 3, Afternoon at 104:20–21, 109:12–16, 133:6–16, 135:6–16, 137:21–138:18, 146:23–147:3.

text, email, social media, voice message, U.S. mail, and in person.⁴³ These messages included those that said:

- “Ruby, please report to the FBI + tell them you committed voter fraud. If not, you will be sorry.”⁴⁴
- “Ruby Freeman, I hope the Federal Government hangs you and your daughter from the Capitol dome you treasonous piece of sh*t! I pray that I will be sitting close enough to hear your necks snap! You sold out your country, you sold out democracy, and you sold out freedom you worthless piece of sh*t!”⁴⁵
- “Hey Shaye, You might want to go read the President Trump’s executive order from 2018 and turn yourself in before you get caught for treason and go to Gitmo. Have a nice life, what left of it you have! Bye!”⁴⁶
- “Lady Ruby, you’re going to prison you f**king c***! You c*** f**king b*tch. You racist piece of sh*t. You’re going to go to f**k prison and you’re going to sit there and you’re going to live with the rats and the f**king maggots. You f**king piece of sh*t, you and that fat f**king daughter c*** of yours. You f**king dumb f**king whores, you got used, you got abused, and now you’re going to prison. Eat sh*t and die you f**king racist c***** you and your fat f**king daughter that scrawny f**king piece of sh*t that helped you pulled this f**king USB sh*t off. You are f**king done you f**king whore!”⁴⁷
- “Hey Ruby, um, we are going to burn your store down and we are going to burn all those n***** clothes that you sell that nobody wants. Oh and your daughter, she’s a f**king whore.”⁴⁸
- “n***** n***** n***** n***** n***** n*****.”⁴⁹
- “Pack your sh*t. They are coming for you. I’m not far behind. I’m coming

⁴³ Freeman Complaint ¶¶ 14, 140, 147, 151–53.

⁴⁴ A compilation of written threats Ms. Freeman received was admitted at the Freeman Trial as Trial Ex. 165A.

⁴⁵ Trial Ex. 165A.

⁴⁶ A audio recording of this voicemail was admitted at the Freeman Trial as Trial Ex. 278.

⁴⁷ A audio recording of this voicemail was admitted at the Freeman Trial as Trial Ex. 150.

⁴⁸ A audio recording of this voicemail was admitted at the Freeman Trial as Trial Ex. 144.

⁴⁹ A audio recording of this voicemail was admitted at the Freeman Trial as Trial Ex. 145.

for you also. Trash will be taken to the street in bags.”⁵⁰

- “We. Know. Where. You. Sleep.”⁵¹
- “You are dead. Your family and you are now criminals and traitors to the union. BLM wants the cops to go away, good they are in the way of my ropes and your tree! Hope you have dogs they are real delish. I hope you and your family live in fear for their lives cause they ending soon. Death to traitors and treasonist enemy’s within the country starting with you and your daughter. Then comes your f***ed up friends on facebook. Your mom’s ,pops,gma,bff. You f***ed up and they are just as guilty as you are! F***ing kill yourself now so we can save AMNO! [sic] Stupid iboc n***** casket dweller! Have fun sucking satan’s d*ck b*tch.”⁵²

44. Multiple social media messages told Ms. Freeman and Ms. Moss they should be killed for “treason.”⁵³

45. One person told Ms. Moss’s fourteen-year-old son was told he “should hang alongside [his] n***** momma.”⁵⁴

46. Words turned to action. Strangers showed up to Ms. Freeman’s home and her mother’s home, and sent pizzas to her home that they never ordered, leaving them both terrified to answer the door.⁵⁵ Strangers also showed up to the home of Ms. Freeman’s mother, banging on the door and shouting they were there to conduct a citizen’s arrest.⁵⁶

47. The Federal Bureau of Investigation (“FBI”) told Ms. Freeman she needed to leave her house in early January through the inauguration on January 20, 2021.⁵⁷ She listened to the

⁵⁰ Trial Ex. 165A.

⁵¹ *Id.*

⁵² *Id.*

⁵³ Freeman Complaint ¶ 153, *See generally* Trial Ex. 165A.

⁵⁴ Freeman Complaint ¶ 151.

⁵⁵ *Id.* ¶ 142; Freeman Trial Tr. Day 2, Morning at 68:9–69:4.

⁵⁶ Freeman Complaint ¶¶ 15, 155; Freeman Trial Tr. Day 2, Morning at 68:9–69:17.

⁵⁷ Freeman Complaint ¶¶ 15, 144–45; Freeman Trial Tr. Day 3, Afternoon at 133:20–134:8.

agents' advice when they said it wasn't safe for her to stay in the home where she had lived for more than 20 years.⁵⁸

48. In the days before the January 6 Capitol insurrection, a dozen people assembled outside Ms. Freeman's house, carrying flags and bullhorns.⁵⁹

49. Ms. Freeman never felt safe in that home again. She put it on the market, and now lives in a new neighborhood where she is scared to introduce herself to her neighbors.⁶⁰ As she explained to the jury:

"I go and take the trash out and they would be like, you know, 'Glad to see you in the neighborhood.' They would tell me their name, and I felt just so -- I was like - - I think one lady ***I didn't even introduce myself because who am I?*** What am I? What is my name today? Who am I today? What name am I going to use? You know, they sent a welcome letter. You know, they have different stuff going on, karaoke, tennis, you know, different stuff. And it's like, well, ***I can't go because I can't use my name so I can't participate in nothing.*** You know, so it's like, yeah, I have -- I have a home, but I can't do nothing. I can't -- I can't say who I am.... it's like I can't introduce myself no more. You know, and so the home, ***it's like I miss my old neighborhood because I was me. I could introduce myself. Now I just don't have -- you know, I don't have a name really.***"⁶¹

50. After working hard to build her brand as "Lady Ruby," Ms. Freeman stopped operating her boutique under the name LaRuby's Unique Treasures because she fears being recognized and hearing her name in public.⁶²

51. Shortly after the campaign began, protesters demonstrated outside Ms. Moss's workplace at Fulton County Registration and Elections Department. She felt like a "pariah" at work around co-workers who felt like family, and strangers warned her colleagues to "watch the

⁵⁸ *Id.*

⁵⁹ Freeman Complaint ¶¶ 144–45; Trial Tr. Day 3, Afternoon at 132:10–133:18.

⁶⁰ Freeman Complaint ¶¶ 146, 149; Trial Tr. Day 3, Afternoon at 132:10–133:18.

⁶¹ Trial Tr. Day 3, Afternoon 137:23–138:18 (emphasis added).

⁶² Freeman Complaint ¶¶ 147–49; Trial Tr. Day 3, Afternoon at 146:23–148:4.

company they keep.” She was passed over for a promotion, and told she would never touch a ballot again.⁶³

52. Ms. Moss was forced to leave her job.⁶⁴ When she applied for other positions, Mr. Giuliani’s lies followed her. Ms. Moss told the jury how she interviewed for a position and thought the interview was going well until:

“... the guy interviewing me turned his laptop around and was --showed me an article of me, my face plastered on it, ‘fraud,’ big letters, and the video that’s been going around. And he was like: ‘Well, you know, and the last question, tell me about this. Is this you? Is this true?’...And it kind of just like -- the more he was talking, the more I really -- I just tuned it out, and I was so shocked. I was so embarrassed. Now my heart is racing and I am in fear because other people can hear you. We’re not in here alone, and -- and I just had to leave. I just left.”⁶⁵

53. Because of the constant strain of fearing for herself and her son, Ms. Moss suffers from acute anxiety and emotional distress.⁶⁶ In her words, “I have a lot of dark moments. I no longer go out. I -- I will not be caught out anywhere alone, ever. Like, a hermit crab now. I don’t do anything. Obviously I look totally different than the pictures before because I have gained, like, 70 pounds. I realized that I stress eat and I cry a lot, and I am just this whole new messed-up person.”⁶⁷

E. Mr. Giuliani Continued to Repeat His Malicious Lies About Plaintiffs Even After They Initiated the Freeman Litigation.

54. As discussed in detail below, Ms. Freeman and Ms. Moss filed a lawsuit against Mr. Giuliani on December 23, 2021 to hold him accountable for the harm he caused them.⁶⁸

⁶³ Freeman Complaint ¶¶ 156–59; Freeman Trial Tr. Day 2, Morning at 50:15–51:4, 53:10–54:5.

⁶⁴ Freeman Complaint ¶ 159.

⁶⁵ Freeman Trial Tr. Day 2, Morning at 56:19–57:8.

⁶⁶ Freeman Complaint ¶¶ 160–61, 177, 184–86.

⁶⁷ Freeman Trial Tr. Day 2, Morning at 61:22–62:4.

⁶⁸ Plaintiffs also named Herring Networks, Inc., d/b/a One America News Network, Charles

55. Even after Plaintiffs filed that lawsuit, Mr. Giuliani continued to repeat his malicious lies about them.

56. Since the litigation commenced, Mr. Giuliani began hosting two video streaming shows, *America's Mayor Live* and *America's Mayor Confidential*, which are published on multiple platforms. Mr. Giuliani generates advertising revenue from *America's Mayor Live* based on viewership, and revenue from *America's Mayor Confidential* by charging \$10 a month for access to the program.⁶⁹

57. On October 16, 2023, Plaintiffs filed a non-exhaustive catalog of Mr. Giuliani's ongoing statements about Ms. Freeman, Ms. Moss, and the Freeman Litigation alongside Plaintiffs' Consent Motion in Limine, Freeman Litigation Dkt. No. 103-2. The catalog is attached to this Complaint as Exhibit C. Twelve of the cataloged statements were made on *America's Mayor Live*.

58. On November 17, 2023, *after* the Court entered default judgment (as discussed below), Mr. Giuliani aired portions of the State Farm Arena Video on *America's Mayor Live* and *America's Mayor Confidential*.⁷⁰ For nearly half an hour, Mr. Giuliani repeated lies about Ms. Freeman and Ms. Moss, including:

“I want to show you what unmistakably is a double, triple and quadruple counting the same ballot. This was done after the public was thrown out of the State Farm

Herring, Robert Herring, and Chanel Rion as defendants. Those parties settled in May 2022 and were dismissed from the case.

⁶⁹ Freeman Litigation Dkt. No. 70-7 at 40:3–25; Rachel Dobkin, *Rudy Giuliani Pleads for Money After Filing for Bankruptcy*, Newsweek, (Jan. 1, 2024) <https://www.newsweek.com/rudy-giuliani-pleas-money-after-filing-bankruptcy-1856941>.

⁷⁰ Rudy Giuliani, *America's Mayor Live (E280): The American Left Openly Supports Anti-American Terrorists*, Rumble (Nov. 17, 2023 8:00 PM EST) <https://perma.cc/37KB-E7K6>; Rudy Giuliani, *America's Mayor Confidential: Friday November 17, 2023*, YouTube (Nov. 17, 2023 9:00 PM EST) <https://perma.cc/8W4Q-JRQ6?type=standard>.

Arena, the only people left were *six Democrat operatives, including Shaye Moss*. And what's the other woman's name? [Producer: Ruby] *Ruby Freeman, right. Who, who claim, you know all kinds of terrible things and that they were lied about and like hell they were*. And now you're going to see *they ran this operation*.”⁷¹

59. On December 11, 2023, the first day of trial, immediately after Mr. Giuliani sat in the courtroom and heard about the harm Ms. Freeman and Ms. Moss suffered, he walked to the courtroom steps and stated:

GIULIANI: “[E]very thing I said about them is true.

REPORTER: Do you regret what you did to Sh- Ruby Freeman?

GIULIANI: *Of course I don't regret it*, I told the truth. They, they were engaged in changing votes.”⁷²

60. Mr. Giuliani has continued to repeat his lies about Plaintiffs post-petition. On January 5, 2024, two weeks after filing his Chapter 11 Petition, Mr. Giuliani said the following on his program *America's Mayor Live*:

“The case was in Georgia, the two women, I could play the tapes for you right now of one of them counting ballots four times. I wasn't allowed to play it at the trial, she'll probably put me in jail if I play them. God forbid you should find out the truth. Because we don't live in a free country any longer. We're free as long as we do what the Biden regime requires us to do, which is to submit to the lie that the election of 2020 was legitimate. Submit to the lie that these women didn't do multiple counts of the ballot. Submit to the lie that Atlanta, Georgia didn't engage in election fraud, it would almost be inconsistent in who they are if they didn't engage in election fraud.”⁷³

⁷¹ *America's Mayor Live (E280): The American Left Openly Supports Anti-American Terrorists* at 53:05–53:50 (emphasis added).

⁷² Video of Mr. Giuliani's December 11, 2023 remarks was admitted at the Freeman Trial as Trial Ex. 605.

⁷³ Rudy W. Giuliani (@RudyGiuliani), *America's Mayor Live E315 Joe Biden Says My Name in Re-Election Campaign Announcement - My Response* (Jan. 5, 2024, 8:00 PM), <https://x.com/RudyGiuliani/status/1743437296396013678?s=20> at 15:01–16:04.

61. On January 8, 2024, Mr. Giuliani said about the State Farm Arena Video: “I had a clear video of her quadruple and triple counting the same ballots. You can look at it 100 times you can analyze it 50 ways to Sunday that's exactly what she was doing.”⁷⁴

62. Mr. Giuliani recently reached an agreement to air *America's Mayor Live* on Newsmax2, Newsmax's newly announced streaming channel, which increases the reach of and revenue generated from the show.⁷⁵

II. THE DISTRICT COURT FOUND MR. GIULIANI LIABLE ON ALL OF PLAINTIFFS' CLAIMS, ENTERED DECLARATORY RELIEF FINDING HIS CONDUCT WILLFUL AND MALICIOUS, AND A JURY AWARDED OVER \$148 MILLION IN COMPENSATORY AND PUNITIVE DAMAGES.

63. On December 23, 2021, Ms. Freeman and Ms. Moss filed a lawsuit in the District Court against Mr. Giuliani. Ms. Freeman and Ms. Moss filed an Amended Complaint, (the “Freeman Complaint”) on May 10, 2022 asserting claims for defamation *per se*, intentional infliction of emotional distress (IIED), and civil conspiracy. Mr. Giuliani filed a motion to dismiss the Freeman Complaint, which the District Court denied in full, holding that the Freeman Complaint stated legally sufficient claims in all respects.⁷⁶

A. As a Consequence of Mr. Giuliani's “Willful Shirking Of His Discovery Obligations,” The District Court Enters Default Judgment and Finds Mr. Giuliani Liable for All Claims.

64. For more than a year, Plaintiffs diligently served and sought discovery from Mr. Giuliani, and spent a large majority of that time attempting to resolve his failure to fulfill his most basic responsibilities without Court resolution. Mr. Giuliani resisted, ignored, and avoided

⁷⁴ Rudy W. Giuliani (@RudyGiuliani), *American's Mayor Confidential Setting the Record w/ Cara Castronuova*, (Jan. 8, 2024 9:00 PM), <https://twitter.com/RudyGiuliani/status/1744461285696151749> at (8:46–21:03).

⁷⁵ Freeman Litigation Dkt. No. 115 at 20.

⁷⁶ Freeman Litigation Dkt. No. 31.

producing materials or providing any explanation about his preservation, collection, search, or production efforts.

65. Between March and May of 2023, the District Court held multiple hearings and entertained multiple filings regarding Mr. Giuliani's failure to comply with his most basic discovery obligations despite his acknowledging that he knew what was expected of him given his practice as a lawyer for more than 50 years.⁷⁷ Those events culminated in Plaintiff's filing a motion to compel and various Court orders that Mr. Giuliani largely ignored in full or part, including ordering him to detail his preservation efforts and to produce information regarding his finances and his various businesses.⁷⁸ The history of Mr. Giuliani's discovery misconduct is extensive, and is documented thoroughly in numerous public filings and court orders in the Freeman Litigation that are subject to judicial notice.⁷⁹

66. Finally, after months of inexcusable discovery misconduct, Ms. Freeman and Ms. Moss moved for sanctions pursuant to Federal Rule 37 of Civil Procedure (the "Motion for Sanctions").⁸⁰

⁷⁷ Freeman Litigation Dkt. Nos. 41, 44, 51, 81.

⁷⁸ Freeman Litigation Dkt. Nos 44, 61; Freeman Litigation May 19, 2023 Min. Order; May 31, 2023 Min. Order; June 22, 2023 Min. Order.

⁷⁹ See Freeman Litigation Dkt. Nos. 36–38 40, 42, 44–44-16, 51, 56–56-10, 60–61, 64–65, 69, 70–70-11, 72–74, 75–78, 81–82, 84–84-2, 86–86-7, 88–91, 92–97, 99–102; March 20, 2023 Min. Order; March 21, 2023 Min. Order; April 11, 2023 Min. Order; May 19, 2023 Min. Order; May 31, 2023 Min. Order; June 22, 2023 Min. Orders; June 23, 2023 Min. Order; July 13, 2023 Min. Order; July 26, 2023 Min. Order; August 4, 2023 Min. Order; August 14, 2023 Min. Order; September 22, 2023 Min. Orders.

⁸⁰ Freeman Litigation Dkt. No. 81.

67. Two days after Plaintiffs filed the Motion for Sanctions, the Court entered a minute order addressing Mr. Giuliani's failure to comply with prior discovery orders and "caution[ing]" Mr. Giuliani that his continued failure to comply "may result in severe discovery sanctions"⁸¹

68. Mr. Giuliani filed an opposition to the Motion for Sanctions on July 25, 2023, in which Mr. Giuliani did not attempt to deny or defend his litigation conduct. Instead, he submitted an unsworn document styled "nolo contendere" in which he unilaterally "stipulated" that he "does not contest" that he published statements about the Plaintiffs that were false and defamatory *per se*, or the "factual elements of liability" for IIED.⁸² Mr. Giuliani's counsel confirmed in writing to Plaintiffs' counsel that "Mr. Giuliani will not contest willfulness for purposes of punitive damages, should the Court hold him liable."⁸³

69. The next day, the Court filed a lengthy minute order directing Mr. Giuliani to clarify his stipulation, which the Court observed "purports to set out concessions sufficient to avoid further discovery demands and the risk of concomitant sanctions for failure to comply with discovery obligations, under Federal Rules of Civil Procedure 26 through 37, but simultaneously contains multiple caveats and limitations undercutting that purpose."⁸⁴ "Given the seemingly incongruous and certainly puzzling caveats" contained in that stipulation, the Court ordered Mr. Giuliani to file another superseding stipulation in which he "concedes, for purposes of this litigation, all factual allegations in plaintiffs' [] Amended Complaint as to his liability for plaintiffs' defamation, intentional infliction of emotional distress, and civil conspiracy claims, and his

⁸¹ Freeman Litigation Dkt. July 13, 2023 Minute Order.

⁸² A copy of this July 25, 2023 stipulation is attached as Exhibit D.

⁸³ Freeman Litigation Dkt. No. 86-6, at 4.

⁸⁴ Freeman Litigation Dkt. August 4, 2023 Min. Order.

liability as to plaintiffs' claim for punitive damages” and that entry of default judgment on liability is appropriate in this case[.]” Alternatively, the Court permitted Mr. Giuliani to decline to file a superseding stipulation and instead to provide “clarification as to what precisely his original stipulation conceded regarding the plaintiffs' factual allegations and legal claims.”

70. Mr. Giuliani filed a “superseding nolo contendere” on August 8, 2023,⁸⁵ in which he repeated his earlier stipulations and added—among other concessions—that he:

- **“does not contest Plaintiffs’ factual allegations that he is liable for the causes of action** that Plaintiffs complain of, subject to Plaintiffs offering proof of the amount of damages that Giuliani allegedly caused them from his conduct they complain of”;
- **“concedes, for purposes of this litigation only, all factual allegations in Plaintiffs’ Amended Complaint as to his liability”**;
- **“concedes, for purposes of this litigation only, that liability in this case on Plaintiffs’ causes of action should be treated as though there is default liability.”**⁸⁶

71. Mr. Giuliani again purported to reserve certain legal defenses.

72. On August 30, 2023, the District Court granted Plaintiffs’ Motion for Sanctions in a 57-page opinion (“Default Judgment Opinion”), which entered default judgment as to Mr. Giuliani’s liability on all claims.⁸⁷

73. Ultimately, the District Court concluded that Mr. Giuliani’s unilateral stipulations (and attempts to reserve legal arguments for appeal) were “simply not effective concessions to liability” in light of their many loopholes and caveats. Instead, given the egregious and willful

⁸⁵ A copy of this August 8, 2023 stipulation is attached as Exhibit E.

⁸⁶ Freeman Litigation Dkt. No. 90 (emphasis added).

⁸⁷ Freeman Litigation Dkt. No. 94. A copy of that Opinion is attached as Exhibit F.

nature of Mr. Giuliani’s discovery misconduct, the District Court entered a default judgment as to liability “as a straight-up sanction for [Mr. Giuliani’s] discovery failures.”

74. The District Court noted:

“The reservations in Giuliani’s stipulations make clear his goal to bypass the discovery process and a merits trial—at which his defenses may be fully scrutinized and tested in our judicial system’s time-honored adversarial process—and to delay such a fair reckoning by taking his chances on appeal, based on the abbreviated record he forced on plaintiffs. Yet, just as taking shortcuts to win an election carries risks—even potential criminal liability—bypassing the discovery process carries serious sanctions, no matter what reservations a noncompliant party may try artificially to preserve for appeal.”

75. The District Court explained that, as a matter of law, “default judgment is inappropriate unless the litigant’s misconduct is accompanied by ‘willfulness, bad faith, or fault’”⁸⁸ and made extensive factual findings and legal determinations detailing how Mr. Giuliani’s pattern of “willful discovery misconduct” fulfilled that standard.⁸⁹

76. The District Court recounted how Mr. Giuliani “flaunted his discovery obligations”⁹⁰ and repeatedly defied Court Orders, noting:

“Giuliani’s most flagrant violation of this Court’s Discovery Orders is that he has not, as required by the May 31 Order, “search[ed] and produce[d] all materials responsive to plaintiffs’ RFPs, with the exception of RFPs 40 and 41, within the date ranges agreed to by the parties, with the assistance of a professional vendor, and produce a privilege log specifically tailored to the searches he has performed for materials responsive to plaintiffs’ RFPs.”⁹¹

77. As the District Court recounted:

“With respect to the May 31 Order, Giuliani was given reprieve after reprieve to comply with the Order: He was first granted a two-week extension to comply from June 16 to June 30, 2023, and then, even after Giuliani apparently failed to comply

⁸⁸ *Id.* at 44.

⁸⁹ *Id.* at 25.

⁹⁰ *Id.* at 45.

⁹¹ *Id.* at 40–41.

with the May 31 Order by June 30, 2023, he was afforded another 35 days to comply without even having filed a motion for extension of time. His choice to make no effort to comply with the May 31 Order, or even file his two Stipulations prior to the June 30, 2023 compliance deadline, can be seen as nothing else than ignoring court orders.”⁹²

78. The Court observed that “Giuliani did not contest these discovery shortcomings and failures to comply with the Discovery Orders”⁹³ and instead entered the stipulations that “make crystal clear *his choice* not to provide further discovery.”⁹⁴ The Court concluded that the “only reasonable explanation for Giuliani’s blatant disregard for satisfying his preservation obligations—despite fully understanding them—is that he intentionally and willfully ignored them.”⁹⁵

79. Although the default judgment conclusively deemed Plaintiffs’ factual allegations admitted and resolved Mr. Giuliani’s liability to Plaintiffs as to all claims, the District Court determined that “[b]efore final judgment may be entered reflecting the amount of compensatory and punitive damages, if any, to be awarded to plaintiffs, a trial on such damages is required.”⁹⁶

80. The District Court set the case for a damages-only trial beginning December 11, 2023.

81. In anticipation of the damages trial, the District Court directed Mr. Giuliani and his businesses “again, to produce, by September 20, 2023, records relevant to the quantifications of damages that they were required, but still have failed, to produce” including financial documents,

⁹² Exhibit F at 45–46.

⁹³ *Id.* at 19.

⁹⁴ *Id.* at 26 (emphasis added).

⁹⁵ *Id.* at 39–40.

⁹⁶ *Id.* at 56.

and viewership metrics for the Actionable Statements.⁹⁷ The District Court ordered that failure to produce these materials would result in adverse inferences.⁹⁸ When Mr. Giuliani failed to produce the records relevant to quantification of damages, the Plaintiffs filed a Motion for Additional Sanctions on September 29, 2023.⁹⁹ On October 13, 2023, the District Court ordered additional sanctions, including the following adverse inferences against Mr. Giuliani:

- “defendant Giuliani was intentionally trying to hide relevant discovery about the Giuliani Businesses’ finances for the purpose of shielding his assets from discovery and artificially deflating his net worth[;]”
- “defendant Giuliani was intentionally trying to hide relevant discovery about the viewership of Common Sense and his social media reach for the purpose of artificially deflating the reach of his defamatory statements[;]”
- “defendant Giuliani received substantial financial benefits from defendant Giuliani’s defamation of Plaintiffs[;]” and
- “the Giuliani Businesses continue to generate advertising revenue and other income from their operations[.]”¹⁰⁰

B. A Federal Jury Awards \$73 Million in Compensatory Relief and \$75 Million in Punitive Damages, and The Court Enters a Final Judgment That Incorporates the Parties’ Joint Stipulation That Mr. Giuliani’s Conduct was Willful and Malicious.

82. A jury trial on damages occurred between December 11 and 15, 2023, during which time Plaintiffs presented four live witnesses for testimony, additional witnesses via deposition testimony, and more than 200 exhibits.

83. Mr. Giuliani declined to put on any affirmative defense and, after initially stating that he would testify, decided not to take the stand the evening before he was expected to do so.

⁹⁷ Exhibit F at 56.

⁹⁸ Freeman Litigation Dkt. No. 93 at 3.

⁹⁹ Freeman Litigation Dkt. No. 101.

¹⁰⁰ Freeman Litigation Dkt. No. 102 at 4.

84. At trial, Plaintiffs presented evidence showing how Mr. Giuliani used his campaign about Plaintiffs to substantiate his preconceived narrative that the Election was “stolen.” The jury saw deposition testimony from Mr. Giuliani’s co-conspirators and his own tweets from November 2020, which demonstrated how Mr. Giuliani assembled a team to “expose the blatant theft of the Presidency of our great country”¹⁰¹ within days of the 2020 Election.¹⁰² The jury heard how Mr. Giuliani and his legal team began formulating the Giuliani Strategic Plan in mid-November, weeks before December 3, 2020.¹⁰³

85. The jury heard how Mr. Giuliani had the ability to verify or vet his claims about Ms. Freeman and Ms. Moss before broadcasting them to the world, but chose not to do so. Jurors viewed deposition testimony from Michelle Branton, one of the Republican election observers present at State Farm Arena. She testified that no one on the Giuliani Legal Team or the Trump Campaign attempted to contact her about the events of Election Day,¹⁰⁴ despite the fact that the Trump Campaign filed an affidavit she drafted as a part of a lawsuit challenging the Election in Georgia.¹⁰⁵ Ms. Branton testified that if Mr. Giuliani or his team contacted her, she “[a]bsolutely”

¹⁰¹ Mr. Giuliani’s Twitter posting including this quote was admitted at the Freeman Trial as Trial Ex. 216.

¹⁰² The referenced testimony originated from the Deposition of Bernard Kerik, excerpts of which were admitted at the Freeman Trial as Trial Ex. 592; the Deposition of Christina Bobb, excerpts of which were admitted at the Freeman Trial as Trial Ex. 595; and the Deposition of Jenna Ellis, excerpts of which were admitted at the Freeman Trial as Trial Ex. 594.

¹⁰³ Trial Ex. 592.

¹⁰⁴ The referenced testimony originated from the Deposition of Michelle Branton, excerpts of which were admitted at the Freeman Trial as Trial Ex. 589.

¹⁰⁵ The referenced Affidavit from Michelle Branton was admitted at the Freeman Trial as Trial Ex. 246.

would have told them that (i) she was not kicked out of State Farm Arena,¹⁰⁶ (ii) she was not told to leave because of a water leak,¹⁰⁷ and (iii) was she told to leave State Farm Arena at all.¹⁰⁸

86. The jury learned how Mr. Giuliani claimed on multiple occasions that Ms. Freeman had a criminal history and had been arrested as a result of election fraud, but did not have his staff run a simple background check to confirm the allegations. As the jury heard from Mr. Giuliani's lead investigator, he could have run a background check of Ms. Freeman with one phone call, but he did not do so.¹⁰⁹

87. Trial exhibits demonstrated how Mr. Giuliani knew that his sustained, strategic defamation of Ms. Freeman and Ms. Moss would cause considerable injury. He knew this not only because of his personal¹¹⁰ and professional experience, but because he had been warned. The jury heard how in a December 1, 2020 press conference, Gabriel Sterling implored the Trump Campaign to "stop inspiring people to commit potential acts of violence" because "someone's going to get hurt. Someone's going to get shot. Someone's going to get killed."¹¹¹ In a December 4, 2020 interview on Newsmax, also submitted to the jury, Mr. Sterling further stated that "with

¹⁰⁶ Trial Ex. 589.

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ Trial Ex. 592.

¹¹⁰ For example, on October 4, 2023, Mr. Giuliani filed his own defamation case against President Joe Biden, for a single statement made during the televised October 22, 2020 Presidential Debate. See Complaint, *Giuliani v. Biden*, No. 217-2023-CV-00549 (Merrimack Sup. Ct., N.H. Oct. 4, 2023). The case subsequently removed to federal court. See *Giuliani v. Biden*, No. 1:23-cv-00543-PB-AJ, (D.N.H. Dec. 18, 2023). Mr. Giuliani claims he suffered millions of dollars of damages after being called "a Russian pawn," damages he was allegedly suffering while actively defaming Ms. Freeman and Ms. Moss. A transcript of a October 2, 2023 press conference Mr. Giuliani held concerning the *Giuliani v. Biden* Complaint was admitted at the Freeman Trial as Trial Ex. 600.

¹¹¹ Freeman Complaint ¶¶ 138–39; Trial Ex. 244.

people’s emotions up” allegations of voter fraud in Georgia are causing “threats to be made against these thousands of workers across the country.”¹¹² The jury saw examples of Mr. Giuliani continuing to defame Ms. Freeman and Ms. Moss for months after these warnings, after Plaintiffs sent Mr. Giuliani a retraction letter on December 16, 2021, and after the Freeman Litigation was initiated on December 23, 2021.¹¹³

88. The jury learned that Mr. Giuliani is a prominent media figure who profited from his defamation of Ms. Freeman and Ms. Moss. The jury heard how Mr. Giuliani repeatedly spread lies about Ms. Freeman and Ms. Moss on his radio shows and online video show. Because of Mr. Giuliani’s egregious discovery misconduct, the jury was instructed to “infer that defendant Giuliani received substantial financial benefits from defendant Giuliani’s defamation of Plaintiffs.”¹¹⁴

89. On December 15, 2023, a jury awarded Ms. Freeman and Ms. Moss, collectively, \$148,169,000.00 in damages resulting from Mr. Giuliani’s conduct, including (a) a total of \$33,169,000 in compensatory damages for defamation; (b) a total of \$40 million in compensatory damages for intentional infliction of emotional distress; and (c) a total of \$75 million in punitive damages.¹¹⁵

90. On December 18, 2023, Plaintiffs and Mr. Giuliani reached an agreement resolving various post-verdict areas of dispute, including set-offs to the damages award, and agreed to a

¹¹² *Id.*

¹¹³ *See generally* Exhibit C.

¹¹⁴ Freeman Litigation Dkt. No. 102 at 4; *see also* Freeman Litigation Dkt. No. 70-7 at 32:10–33:3, 36:17–38:11 (excerpts of Mr. Giuliani’s deposition testimony confirming that he generates advertising revenue from his various programs).

¹¹⁵ Freeman Litigation Dkt. No. 135. A copy of the Verdict Form is attached as Exhibit G.

Joint Stipulation Regarding Entry of Final Judgment,¹¹⁶ which requested that the District Court enter the following declaratory relief:

“It is hereby DECLARED pursuant to 28 U.S.C. § 2201(a), as between Plaintiffs and Defendant: (1) that the Actionable Statements set forth in the Amended Complaint (ECF No. 22) are false; (2) that those statements are defamatory and defamatory per se; (3) that those statements were of and concerning Plaintiffs; (4) that Defendant made those statements with actual malice; (5) that Defendant published those statements to third parties without privilege; and (6) that those statements caused Plaintiffs harm.

It is further hereby DECLARED pursuant to 28 U.S.C. § 2201(a), as between Plaintiffs and Defendant: (1) that Defendant Giuliani engaged in extreme and outrageous conduct which (2) *intentionally and maliciously* (3) caused the Plaintiffs to suffer severe emotional distress.

It is hereby DECLARED pursuant to 28 U.S.C. § 2201(a), as between Plaintiffs and Defendant: (1) that Defendant Giuliani entered into an agreement on or before December 3, 2020, with Donald J. Trump, Christina Bobb, Herring Networks, Inc., d/b/a OAN, Robert Herring, Charles Herring, Chanel Rion, and members of the Trump 2020 Presidential Campaign, including members of the Trump Legal team headed by Giuliani, who caused statements to be published about Plaintiffs or participated in such publications, (2) to participate in defamation of and intentional infliction of emotional distress on Plaintiffs, and (3) that Plaintiffs were injured by unlawful overt acts performed by parties to the agreement pursuant to, and in furtherance of, the common scheme.

It is hereby DECLARED pursuant to 28 U.S.C. § 2201(a), as between Plaintiffs and Defendant: that Defendant’s conduct was intentional, malicious, wanton, and willful, such that Plaintiffs are entitled to punitive damages.”¹¹⁷

91. The District Court entered a Final Judgment on December 18, 2023, which included declaratory relief in the form set forth in the joint stipulation.¹¹⁸

92. Mr. Giuliani filed a Chapter 11 petition on December 21, 2023.

¹¹⁶ A copy of the Joint Stipulation is attached as Exhibit H.

¹¹⁷ Freeman Litigation Dkt. No. 138 at 2–3 (emphasis added).

¹¹⁸ Freeman Litigation Dkt. No. 142. A copy of the Final Judgment is attached as Exhibit I.

CAUSE OF ACTION

93. Plaintiffs incorporate the foregoing paragraphs as if fully set forth herein.

94. Mr. Giuliani's debt to Ms. Freeman and Ms. Moss is nondischargeable under 11 U.S.C. § 523(a)(6) because that debt is "for willful and malicious injury by" Mr. Giuliani to Ms. Freeman and Ms. Moss.

PRAYER FOR RELIEF

95. Plaintiffs respectfully request that the Court enter judgment:

- a) excepting from discharge Mr. Giuliani's indebtedness to Ms. Freeman and Ms. Moss pursuant to 11 U.S.C. § 523(a)(6); and
- b) granting Plaintiffs such other and further relief as this Court deems just and proper.

Dated: February 23, 2024

/s/ Rachel C. Strickland

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